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November 26, 2014

Via ECF

Magistrate Judge A. Kathleen Tomlinson
United States District Court – EDNY
814 Federal Plaza
Central Islip, New York 11722

Re: *Official Committee of Unsecured Creditors of Exeter Holding, Ltd. v. Linda Haltman, et al.*, Case. No. 13-cv-05475-JS-AKT

Dear Judge Tomlinson:

This firm is special litigation counsel for Plaintiff Gary Herbst (the “Plaintiff”) in his capacity as plan administrator for the confirmed plan of Exeter Holding, Ltd. in the above-captioned proceeding. Plaintiff writes regarding the status of the Motion to Hold Defendant Linda Haltman in Contempt (Docket Nos. 61–63, the “Contempt Motion”) and Motions to Vacate the Order¹ dated August 6, 2014 (Docket Nos. 59 and 66, the “Motion to Vacate,” together with the Contempt Motion, the “Motions”). The Motions have been fully briefed and the parties are awaiting the Court’s decision on them.

The Order required the parties to meet and confer as to whether the relevant defendants have complied with the Order, or otherwise Plaintiff was required to file a motion to compel by October 13, 2014. Following the submission of a letter dated September 25, 2014 by Plaintiff to the Court regarding these issues, the Court ordered on October 8, 2014 that “[t]he October 16, 2014 Pre-Trial Conference is ADJOURNED without date pending the disposition of the discovery issues currently before the Court.” As discussed in Plaintiff’s September 25 letter, the parties cannot effectively meet and confer until the Motion to Vacate has been resolved. Likewise, Plaintiff is unable to take any depositions until the Court decides whether Defendant Linda Haltman should be excluded from all future depositions other than her own, part of the relief sought in the Contempt Motion.

Therefore, due to the already-compressed schedule in this proceeding, the discovery standstill that has ensued while the Motions are pending, and the advanced age of some of the defendants, Plaintiff respectfully requests a conference with the Court to discuss the status of the Motions and a revised discovery schedule, if necessary, going forward.

¹ This Court issued a verbal order concerning various discovery issues at the April 9, 2014 hearing (Docket No. 55) and subsequently memorialized on April 14, 2014 (Docket No. 38), with deadlines later modified by the Court at the August 6, 2014 status conference (Docket No. 56) (collectively, the “Order”).

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Sincerely,

/s John D. Roesser

cc: Opposing Counsel (via ECF)